

Showing Current Law as Amended by H.R. 2021

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Sections 601 and 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)

(Sec. 601) §2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin

(a) No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b)(1)(A) Discrimination (including exclusion from participation and denial of benefits) based on disparate impact is established under this title if—

- (i) an entity subject to this title (referred to in this subsection as a ‘covered entity’) has a program, policy, practice, or activity that causes a disparate impact on the basis of race, color, or national origin and the covered entity fails to demonstrate that the challenged program, policy, practice, or activity is related to and necessary to achieve the nondiscriminatory goal of the program, policy, practice, or activity alleged to have been operated in a discriminatory manner; or
- (ii) a less discriminatory alternative program, policy, practice, or activity exists, and the covered entity refuses to adopt such alternative program, policy, practice, or activity.

(B) With respect to demonstrating that a particular program, policy, practice, or activity does not cause a disparate impact, the covered entity shall demonstrate that each particular challenged program, policy, practice, or activity does not cause a disparate impact, except that if the covered entity demonstrates to the courts that the elements of the covered entity’s decision-making process are not capable of separation for analysis, the decision-making process may be analyzed as 1 program, policy, practice, or activity.

(2) A demonstration that a program, policy, practice, or activity is necessary to achieve the goals of a program, policy, practice, or activity may not be used as a defense against a claim of intentional discrimination under this title.

(3) In this subsection—

(A) the term ‘demonstrates’ means to meet the burdens of going forward with the evidence and of persuasion; and

(B) the term ‘disparate impact’ has the meaning given the term in section 3 of the Environmental Justice For All Act.

(c) No person in the United States shall be subjected to discrimination, including retaliation or intimidation, because such person opposed any program, policy, practice, or activity prohibited by this title, or because such person made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(Sec. 602) §2000d–1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action

(a) Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of [section 2000d of this title](#) with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(b) Any person aggrieved by the failure to comply with this title, including any regulation promulgated pursuant to this title, may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties.

SEC. 602A. ACTIONS BROUGHT BY AGGRIEVED PERSONS.

(a) CLAIMS BASED ON PROOF OF INTENTIONAL DISCRIMINATION.—In an action brought by an aggrieved person under this title against an entity subject to this title (referred to in this section as a ‘covered entity’) who has engaged in unlawful intentional discrimination (not a practice that is unlawful because of its disparate impact) prohibited under this title (including its implementing regulations), the aggrieved person may recover equitable and legal relief (including compensatory and punitive damages), attorney’s fees (including expert fees), and costs of the action, except that punitive damages are not available against a government, government agency, or political subdivision.

(b) CLAIMS BASED ON THE DISPARATE IMPACT STANDARD OF PROOF.—In an action brought by an aggrieved person under this title against a covered entity who has engaged in unlawful discrimination based on disparate impact prohibited under this title (including implementing regulations), the aggrieved person may recover attorney’s fees (including expert fees), and costs of the action.

(c) DEFINITIONS.—In this section:

(1) AGGRIEVED PERSON.—The term ‘aggrieved person’ means a person aggrieved by discrimination on the basis of race, color, or national origin.

(2) DISPARATE IMPACT.—The term ‘disparate impact’ has the meaning given the term in section 3 of the Environmental Justice For All Act.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342)

[§1342. National pollutant discharge elimination system

(a) Permits for discharge of pollutants

(1) Except as]

SEC. 402. National Pollutant Discharge Elimination System.

(a) Permits Issued By Administrator.—

(1) In General.—Except as provided in sections 1328 and 1344 of this title, the Administrator may, after opportunity for public hearing issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a) of this title, [upon condition that such discharge will meet either (A) all] subject to the conditions that—

(A) the discharge will achieve compliance with, as applicable—

(i) all applicable requirements under sections [403 of this Act, or (B) prior] 403; or

(ii) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act [.]; and

(B) with respect to the issuance or renewal of the permit—

(i) based on an analysis by the Administrator of existing water quality and the potential cumulative impacts (as defined in section 501 of the Clean Air Act (42 U.S.C. 7661)) of the discharge, considered in conjunction with the designated and actual uses of the impacted navigable water, there exists a reasonable certainty of no harm to the health of the general population, or to any potentially exposed or susceptible subpopulation; or

(ii) if the Administrator determines that, due to those potential cumulative impacts, there does not exist a reasonable certainty of no harm to the health of the general population, or to any potentially exposed or susceptible subpopulation, the permit or renewal includes such terms and conditions as the Administrator determines to be necessary to ensure a reasonable certainty of no harm.

(2) The Administrator shall prescribe conditions for such permits to [assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.] ensure compliance with the requirements of paragraph (1), including—

(A) conditions relating to—

(i) data and information collection;

(ii) reporting; and

(iii) such other requirements as the Administrator determines to be appropriate; and

(B) additional controls or pollution prevention requirements.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 407 of this title shall be deemed to be permits issued under this subchapter, and permits issued under this subchapter shall be deemed to be permits issued under section 407 of this title, and shall

continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this chapter.

(5) No permit for a discharge into the navigable waters shall be issued under [section 407 of this title](#) after October 18, 1972. Each application for a permit under [section 407 of this title](#), pending on October 18, 1972, shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this chapter to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on October 18, 1972, and ends either on the ninetieth day after the date of the first promulgation of guidelines required by [section 1314\(i\)\(2\) of this title](#), or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this chapter. No such permit shall issue if the Administrator objects to such issuance.

(b) State permit programs

At any time after the promulgation of the guidelines required by subsection (i)(2) of [section 1314 of this title](#), the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which-

(A) apply, and insure compliance with, any applicable requirements of [sections 1311, 1312, 1316, 1317, and 1343 of this title](#);

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells [§ 1311](#).

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of [section 1318 of this title](#); or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in [section 1318 of this title](#) [§ 1318](#).

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application [§ 1318](#).

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit [§ 1318](#).

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify

such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing [§ 1](#) .

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby [§ 1](#) .

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement [§ 1](#) .

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under [section 1317\(b\) of this title](#) into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in [section 1316 of this title](#) if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to [section 1311 of this title](#) if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works [§ 1](#) ; and [§ 1](#) .

(9) To insure that any industrial user of any publicly owned treatment works will comply with [sections 1284\(b\), 1317, and 1318 of this title](#).

(10) To ensure that no permit will be issued or renewed if, with respect to an application for the permit, the State determines, based on an analysis by the State of existing water quality and the potential cumulative impacts (as defined in section 501 of the Clean Air Act (42 U.S.C. 7661)) of the discharge, considered in conjunction with the designated and actual uses of the impacted navigable water, that the terms and conditions of the permit or renewal would not be sufficient to ensure a reasonable certainty of no harm to the health of the general population, or to any potentially exposed or susceptible subpopulation.

(c) Suspension of Federal program upon submission of State program; withdrawal of approval of State program; return of State program to Administrator

(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those discharges subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under [section 1314\(i\)\(2\) of this title](#). If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to [section 1314\(i\)\(2\) of this title](#).

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) Limitations on partial permit program returns and withdrawals.-A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of-

(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

(d) Notification of Administrator

(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this chapter. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after December 27, 1977, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this chapter.

(e) Waiver of notification requirement

In accordance with guidelines promulgated pursuant to subsection (i)(2) of [section 1314 of this title](#), the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) Point source categories

The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Other regulations for safe transportation, handling, carriage, storage, and stowage of pollutants

Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) Violation of permit conditions; restriction or prohibition upon introduction of pollutant by source not previously utilizing treatment works

In the event any condition of a permit for discharges from a treatment works (as defined in [section 1292 of this title](#)) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to [section 1319\(a\) of this title](#) that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Federal enforcement not limited

Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to [section 1319 of this title](#).

(j) Public information

A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with permits

Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of [sections 1319 and 1365 of this title](#), with [sections 1311, 1312, 1316, 1317, and 1343 of this title](#), except any standard imposed under [section 1317 of this title](#) for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) [section 1311, 1316, or 1342 of this title](#), or (2) [section 407 of this title](#), unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on October 18, 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date which source is not subject to [section 407 of this title](#), the discharge by such source shall not be a violation of this chapter if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(l) Limitation on permit requirement

(1) Agricultural return flows

The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) Stormwater runoff from oil, gas, and mining operations

The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(3) Silvicultural activities

(A) NPDES permit requirements for silvicultural activities.-The Administrator shall not require a permit under this section nor directly or indirectly require any State to require a permit under this section for a discharge from runoff resulting from the conduct of the following silviculture activities conducted in accordance with standard industry practice: nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance.

(B) Other requirements.-Nothing in this paragraph exempts a discharge from silvicultural activity from any permitting requirement under [section 1344 of this title](#), existing permitting requirements under [section 1342 of this title](#), or from any other federal law.

(C) The authorization provided in Section ¹ 1365(a) of this title does not apply to any non-permitting program established under 1342(p)(6) ² of this title for the silviculture activities listed in 1342(l)(3)(A) ² of this title, or to any other limitations that might be deemed to apply to the silviculture activities listed in 1342(l)(3)(A) ² of this title.

(m) Additional pretreatment of conventional pollutants not required

To the extent a treatment works (as defined in [section 1292 of this title](#)) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to [section 1314\(a\)\(4\) of this title](#) into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and [section 1317\(b\)\(1\) of this title](#). Nothing in this subsection shall affect the Administrator's authority under [sections 1317 and 1319 of this title](#), affect State and local authority under [sections 1317\(b\)\(4\) and 1370 of this title](#), relieve such treatment works of its obligations to meet requirements established under this chapter, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n) Partial permit program

(1) State submission

The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) Minimum coverage

A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

(3) Approval of major category partial permit programs

The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if-

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

(4) Approval of major component partial permit programs

The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if-

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

(o) Anti-backsliding

(1) General prohibition

In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under [section 1314\(b\) of this title](#) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 1311(b)(1)(C) or section 1313(d) or (e) of this title, a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with [section 1313\(d\)\(4\) of this title](#).

(2) Exceptions

A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if-

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under [section 1311\(c\), 1311\(g\), 1311\(h\), 1311\(i\), 1311\(k\), 1311\(n\), or 1326\(a\) of this title](#); or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this chapter or for reasons otherwise unrelated to water quality.

(3) Limitations

In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to

contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under [section 1313 of this title](#) applicable to such waters.

(p) Municipal and industrial stormwater discharges

(1) General rule

Prior to October 1, 1994, the Administrator or the State (in the case of a permit program approved under this section) shall not require a permit under this section for discharges composed entirely of stormwater.

(2) Exceptions

Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before February 4, 1987.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) Permit requirements

(A) Industrial discharges

Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and [section 1311 of this title](#).

(B) Municipal discharge

Permits for discharges from municipal storm sewers-

(i) may be issued on a system- or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) Permit application requirements

(A) Industrial and large municipal discharges

Not later than 2 years after February 4, 1987, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after February 4, 1987. Not later than 4 years after February 4, 1987, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) Other municipal discharges

Not later than 4 years after February 4, 1987, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no

later than 5 years after February 4, 1987. Not later than 6 years after February 4, 1987, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) Studies

The Administrator, in consultation with the States, shall conduct a study for the purposes of-

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality. Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

(6) Regulations

Not later than October 1, 1993, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.

(q) Combined sewer overflows

(1) Requirement for permits, orders, and decrees

Each permit, order, or decree issued pursuant to this chapter after December 21, 2000, for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the "CSO control policy").

(2) Water quality and designated use review guidance

Not later than July 31, 2001, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

(3) Report

Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.

(r) Discharges incidental to the normal operation of recreational vessels

No permit shall be required under this chapter by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.

(s) Integrated plans

(1) Definition of integrated plan

In this subsection, the term "integrated plan" means a plan developed in accordance with the Integrated Municipal Stormwater and Wastewater Planning Approach Framework, issued by the Environmental Protection Agency and dated June 5, 2012.

(2) In general

The Administrator (or a State, in the case of a permit program approved by the Administrator) shall inform municipalities of the opportunity to develop an integrated plan that may be incorporated into a permit under this section.

(3) Scope

(A) Scope of permit incorporating integrated plan

A permit issued under this section that incorporates an integrated plan may integrate all requirements under this chapter addressed in the integrated plan, including requirements relating to-

- (i) a combined sewer overflow;
- (ii) a capacity, management, operation, and maintenance program for sanitary sewer collection systems;
- (iii) a municipal stormwater discharge;
- (iv) a municipal wastewater discharge; and
- (v) a water quality-based effluent limitation to implement an applicable wasteload allocation in a total maximum daily load.

(B) Inclusions in integrated plan

An integrated plan incorporated into a permit issued under this section may include the implementation of-

- (i) projects, including innovative projects, to reclaim, recycle, or reuse water; and
- (ii) green infrastructure.

(4) Compliance schedules

(A) In general

A permit issued under this section that incorporates an integrated plan may include a schedule of compliance, under which actions taken to meet any applicable water quality-based effluent limitation may be implemented over more than 1 permit term if the schedule of compliance-

- (i) is authorized by State water quality standards; and
- (ii) meets the requirements of section 122.47 of title 40, Code of Federal Regulations (as in effect on January 14, 2019).

(B) Time for compliance

For purposes of subparagraph (A)(ii), the requirement of section 122.47 of title 40, Code of Federal Regulations, for compliance by an applicable statutory deadline under this chapter does not prohibit implementation of an applicable water quality-based effluent limitation over more than 1 permit term.

(C) Review

A schedule of compliance incorporated into a permit issued under this section may be reviewed at the time the permit is renewed to determine whether the schedule should be modified.

(5) Existing authorities retained

(A) Applicable standards

Nothing in this subsection modifies any obligation to comply with applicable technology and water quality-based effluent limitations under this chapter.

(B) Flexibility

Nothing in this subsection reduces or eliminates any flexibility available under this chapter, including the authority of a State to revise a water quality standard after a use attainability analysis under section 131.10(g) of title 40, Code of Federal Regulations (or a successor regulation), subject to the approval of the Administrator under [section 1313\(c\) of this title](#).

(6) Clarification of State authority

(A) In general

Nothing in [section 1311\(b\)\(1\)\(C\) of this title](#) precludes a State from authorizing in the water quality standards of the State the issuance of a schedule of compliance to meet water quality-based effluent limitations in permits that incorporate provisions of an integrated plan.

(B) Transition rule

In any case in which a discharge is subject to a judicial order or consent decree, as of January 14, 2019, resolving an enforcement action under this chapter, any schedule of compliance issued pursuant to an authorization in a State water quality standard may not revise a schedule of compliance in that order or decree to be less stringent, unless the order or decree is modified by agreement of the parties and the court.

Sections 501, 502(b), and 503(b) of the Clean Air Act (42 U.S.C. 7661 et seq.)

(Sec. 501) §7661. Definitions

[\[As used in\]](#) **In** this title-

(1) Affected source

The term "affected source" shall have the meaning given such term in subchapter IV–A.

(2) Cumulative Impacts.—The term ‘cumulative impacts’ means any exposure to a public health or environmental risk, or other effect occurring in a specific geographical area, including from an emission, discharge, or release—

(A) including—

(i) environmental pollution released—

(I)(aa) routinely;

(bb) accidentally; or

(cc) otherwise; and

(II) from any source, whether single or multiple; and

(ii) as assessed based on the combined past, present, and reasonably foreseeable emissions and discharges affecting the geographical area; and

(B) evaluated taking into account sensitive populations and other factors that may heighten vulnerability to environmental pollution and associated health risks, including socioeconomic characteristics.

(2) 3) Major source

The term "major source" means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following:

- (A) A major source as defined in [section 7412 of this title](#).
- (B) A major stationary source as defined in [section 7602 of this title](#) or part D of subchapter I.

(4) Permitting authority

The term "permitting authority" means the Administrator or the air pollution control agency authorized by the Administrator to carry out a permit program under this subchapter.

(3) 5) Schedule of compliance

The term "schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.

[(4) Permitting authority]

The term "permitting authority" means the Administrator or the air pollution control agency authorized by the Administrator to carry out a permit program under this subchapter.]

(Sec. 502(b)) §7661a. Permit programs

(a) Violations

After the effective date of any permit program approved or promulgated under this subchapter, it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter, or to operate an affected source (as provided in subchapter IV–A), a major source, any other source (including an area source) subject to standards or regulations under [section 7411 or 7412 of this title](#), any other source required to have a permit under parts ¹ C or D of subchapter I, or any other stationary source in a category designated (in whole or in part) by regulations promulgated by the Administrator (after notice and public comment) which shall include a finding setting forth the basis for such designation, except in compliance with a permit issued by a permitting authority under this subchapter. (Nothing in this subsection shall be construed to alter the applicable requirements of this chapter that a permit be obtained before construction or modification.) The Administrator may, in the Administrator's discretion and consistent with the applicable provisions of this chapter, promulgate regulations to exempt one or more source categories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from such requirements.

(b) Regulations

The Administrator shall promulgate within 12 months after November 15, 1990, regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

- (1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.
- (2) Monitoring and reporting requirements.
- (3)(A) A requirement under State or local law or interstate compact that the owner or operator of all sources subject to the requirement to obtain a permit under this subchapter pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable

(direct and indirect) costs required to develop and administer the permit program requirements of this subchapter, including [section 7661f of this title](#), including the reasonable costs of-

- (i) reviewing and acting upon any application for such a permit,
- (ii) if the owner or operator receives a permit for such source, whether before or after November 15, 1990, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),
- (iii) emissions and ambient monitoring,
- (iv) preparing generally applicable regulations, or guidance,
- (v) modeling, analyses, and demonstrations, and
- (vi) preparing inventories and tracking emissions.

(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs ² (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than \$25 per ton of each regulated pollutant, or such other amount as the Administrator may determine adequately reflects the reasonable costs of the permit program.

(ii) As used in this subparagraph, the term "regulated pollutant" shall mean (I) a volatile organic compound; (II) each pollutant regulated under [section 7411 or 7412 of this title](#); and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(iv) The requirements of clause (i) shall not apply if the permitting authority demonstrates that collecting an amount less than the amount specified under clause (i) will meet the requirements of subparagraph (A).

(v) The fee calculated under clause (i) shall be increased (consistent with the need to cover the reasonable costs authorized by subparagraph (A)) in each year beginning after 1990, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this clause-

(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(C)(i) If the Administrator determines, under subsection (d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under subsection (i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this subchapter, collect reasonable fees from the sources identified under subparagraph (A). Such fees shall be designed solely to cover the Administrator's costs of administering the provisions of the permit program promulgated by the Administrator.

(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 percent of the fee amount, plus interest on the fee

amount computed in accordance with [section 6621\(a\)\(2\) of title 26](#) (relating to computation of interest on underpayment of Federal taxes).

(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State, local, or interstate agency under this subsection shall be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program as set forth in subparagraph (A).

(4) Requirements for adequate personnel and funding to administer the program.

(5) A requirement that the permitting authority have adequate authority to:

(A) issue permits and [\[assure\]](#) [ensure](#) compliance by all sources required to have a permit under this subchapter with each applicable standard, regulation or requirement under this chapter;

(B) issue permits for a fixed term, not to exceed 5 years;

(C) [\[assure\]](#) [ensure](#) that upon issuance or renewal permits incorporate emission limitations and other requirements in an applicable implementation plan;

(D) terminate, modify, or revoke and reissue permits for cause;

(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than \$10,000 per day for each violation, and provide appropriate criminal penalties; and

[(F) assure that no permit will be issued if the Administrator objects to its issuance in a timely manner under this subchapter.]

[\(F\) ensure that no permit will be issued or renewed, as applicable, if—](#)

[\(i\) with respect to an application for a permit or renewal of a permit for a major source, the permitting authority determines under paragraph \(9\)\(A\)\(i\)\(II\)\(bb\) that the terms and conditions of the permit or renewal would not be sufficient to ensure a reasonable certainty of no harm to the health of the general population, or to any potentially exposed or susceptible subpopulation, of the applicable census block groups or Tribal census block groups \(as those terms are defined by the Director of the Bureau of the Census\); or](#)

[\(ii\) the Administrator objects to the issuance of the permit in a timely manner under this title.](#)

(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, for processing such applications, for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications, renewals, or revisions, and including an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.

(7) To ensure against unreasonable delay by the permitting authority, adequate authority and procedures to provide that a failure of such permitting authority to act on a permit application or permit renewal application (in accordance with the time periods specified in [section 7661b of this title](#) or, as appropriate, subchapter IV–A) shall be treated as a final permit action solely for purposes of obtaining judicial review in State court of an action brought by any person referred to in paragraph (6) to require that action be taken by the permitting authority on such application without additional delay.

(8) Authority, and reasonable procedures consistent with the need for expeditious action by the permitting authority on permit applications and related matters, to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under [section 7661b\(e\) of this title](#), subject to the provisions of [section 7414\(c\) of this title](#).

[(9) A requirement that the permitting authority, in the case of permits with a term of 3 or more years for major sources, shall require revisions to the permit to incorporate applicable standards and regulations promulgated under this chapter after the issuance of such permit. Such revisions shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations. No such revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term. Such permit revision shall be treated as a permit renewal if it complies with the requirements of this subchapter regarding renewals.]

(9) Major Sources.—

(A) In General.—With respect to any permit or renewal of a permit, as applicable, for a major source, a requirement that the permitting authority shall—

(i) in determining whether to issue or renew the permit—

(I) evaluate the potential cumulative impacts of the major source, as described in the applicable cumulative impacts analysis submitted under section 503(b)(3), taking into consideration other pollution sources and risk factors within a community;

(II) if, due to those potential cumulative impacts, the permitting authority cannot determine that there exists a reasonable certainty of no harm to the health of the general population, or to any potentially exposed or susceptible subpopulation, of any census block groups or Tribal census block groups (as those terms are defined by the Director of the Bureau of the Census) located in, or immediately adjacent to, the area in which the major source is, or is proposed to be, located—

(aa) include in the permit or renewal such standards and requirements (including additional controls or pollution prevention requirements) as the permitting authority determines to be necessary to ensure a reasonable certainty of no such harm; or

(bb) if the permitting authority determines that standards and requirements described in item (aa) would not be sufficient to ensure a reasonable certainty of no such harm, deny the issuance or renewal of the permit;

(III) determine whether the applicant is a persistent violator, based on such criteria relating to the history of compliance by an applicant with this Act as the Administrator shall establish by not later than 180 days after the date of enactment of the Environmental Justice for All Act;

(IV) if the permitting authority determines under subclause (III) that the applicant is a persistent violator and the permitting authority does not deny the issuance or renewal of the permit pursuant to subclause (II)(bb)—

(aa) require the applicant to submit a plan that describes—

(AA) if the applicant is not in compliance with this Act, measures the applicant will carry out to achieve that compliance, together with an approximate deadline for that achievement;

(BB) measures the applicant will carry out, or has carried out to ensure the applicant will remain in compliance with this Act, and to mitigate the environmental and health effects of noncompliance; and

(CC) the measures the applicant has carried out in preparing the plan to consult or negotiate with the communities affected by each persistent violation addressed in the plan; and

(bb) once such a plan is submitted, determine whether the plan is adequate to ensuring that the applicant—

(AA) will achieve compliance with this Act expeditiously;

(BB) will remain in compliance with this Act;

(CC) will mitigate the environmental and health effects of noncompliance; and

(DD) has solicited and responded to community input regarding the plan; and
(V) deny the issuance or renewal of the permit if the permitting authority determines that—
(aa) the plan submitted under subclause (IV)(aa) is inadequate; or
(bb)(AA) the applicant has submitted a plan on a prior occasion, but continues to be a persistent violator; and
(BB) no indication exists of extremely exigent circumstances excusing the persistent violations; and
(ii) in the case of such a permit with a term of 3 years or longer, require permit revisions in accordance with subparagraph (B).
(B) REVISION REQUIREMENTS.—
(i) DEADLINE.—A revision described in subparagraph (A)(ii) shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations.
(ii) EXCEPTION.—A revision under this paragraph shall not be required if the effective date of the standards or regulations is a date after the expiration of the permit term.
(iii) TREATMENT AS RENEWAL.—A permit revision under this paragraph shall be treated as a permit renewal if it complies with the requirements of this title regarding renewals.
(10) Provisions to allow changes within a permitted facility (or one operating pursuant to [section 7661b\(d\) of this title](#)) without requiring a permit revision, if the changes are not modifications under any provision of subchapter I and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions: ³ *Provided*, That the facility provides the Administrator and the permitting authority with written notification in advance of the proposed changes which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different timeframe for emergencies.

(c) Single permit

A single permit may be issued for a facility with multiple sources.

(d) Submission and approval

(1) Not later than 3 years after November 15, 1990, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this subchapter. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority to carry out the program. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this chapter, including the regulations issued under subsection (b). If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within 180 days after receiving notification.

(2)(A) If the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator may, prior to the expiration of the 18-month period referred to in subparagraph (B), in the Administrator's discretion, apply any of the sanctions specified in [section 7509\(b\) of this title](#).

(B) If the Governor does not submit a program as required under paragraph (1), or if the Administrator disapproves any such program submitted by the Governor under paragraph (1), in whole or in part, 18 months after the date required for such submittal or the date of such disapproval, as the case may be, the Administrator shall apply sanctions under [section 7509\(b\)](#)

of this title in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under [section 7509\(a\) of this title](#).

(C) The sanctions under [section 7509\(b\)\(2\) of this title](#) shall not apply pursuant to this paragraph in any area unless the failure to submit or the disapproval referred to in subparagraph (A) or (B) relates to an air pollutant for which such area has been designated a nonattainment area (as defined in part D of subchapter I).

(3) If a program meeting the requirements of this subchapter has not been approved in whole for any State, the Administrator shall, 2 years after the date required for submission of such a program under paragraph (1), promulgate, administer, and enforce a program under this subchapter for that State.

(e) Suspension

The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this subchapter until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

(f) Prohibition

No partial permit program shall be approved unless, at a minimum, it applies, and ensures compliance with, this subchapter and each of the following:

(1) All requirements established under subchapter IV–A applicable to "affected sources".

(2) All requirements established under [section 7412 of this title](#) applicable to "major sources", "area sources," and "new sources".

(3) All requirements of subchapter I (other than [section 7412 of this title](#)) applicable to sources required to have a permit under this subchapter.

Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this chapter for failure to submit an approvable permit program.

(g) Interim approval

If a program (including a partial permit program) submitted under this subchapter substantially meets the requirements of this subchapter, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than 2 years after such approval, and may not be renewed. For the period of any such interim approval, the provisions of subsection (d)(2), and the obligation of the Administrator to promulgate a program under this subchapter for the State pursuant to subsection (d)(3), shall be suspended. Such provisions and such obligation of the Administrator shall apply after the expiration of such interim approval.

(h) Effective date

The effective date of a permit program, or partial or interim program, approved under this subchapter, shall be the effective date of approval by the Administrator. The effective date of a permit program, or partial permit program, promulgated by the Administrator shall be the date of promulgation.

(i) Administration and enforcement

(1) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this subchapter, the Administrator shall provide notice to the State and may, prior to the expiration of the 18-month period referred to in paragraph (2), in the Administrator's discretion, apply any of the sanctions specified in [section 7509\(b\) of this title](#).

(2) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this subchapter, 18 months after the date of the notice under paragraph (1), the Administrator shall apply the sanctions under [section 7509\(b\) of this title](#) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under [section 7509\(a\) of this title](#).

(3) The sanctions under [section 7509\(b\)\(2\) of this title](#) shall not apply pursuant to this subsection in any area unless the failure to adequately enforce and administer the program relates to an air pollutant for which such area has been designated a nonattainment area.

(4) Whenever the Administrator has made a finding under paragraph (1) with respect to any State, unless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall, 2 years after the date of such finding, promulgate, administer, and enforce a program under this subchapter for that State. Nothing in this paragraph shall be construed to affect the validity of a program which has been approved under this subchapter or the authority of any permitting authority acting under such program until such time as such program is promulgated by the Administrator under this paragraph.

(Sec. 503(b)) §7661b. Permit applications

(a) Applicable date

Any source specified in [section 7661a\(a\) of this title](#) shall become subject to a permit program, and required to have a permit, on the later of the following dates-

(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

(2) the date such source becomes subject to [section 7661a\(a\) of this title](#).

(b) Compliance plan

(1) The regulations required by [section 7661a\(b\) of this title](#) shall include a requirement that the applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this chapter. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months.

(2) The regulations shall further require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

(3) **MAJOR SOURCE ANALYSES.**—The regulations required by [section 502\(b\)](#) shall include a requirement that an applicant for a permit or renewal of a permit for a major source shall submit, together with the compliance plan required under this subsection, a cumulative impacts analysis for each census block group or Tribal census block group (as those terms are defined by the Director of the Bureau of the Census) located in, or immediately adjacent to, the area in which the major source is, or is proposed to be, located that analyzes—

(A) community demographics and locations of community exposure points, such as schools, day care centers, nursing homes, hospitals, health clinics, places of religious worship, parks, playgrounds, and community centers;

(B) air quality and the potential effect on that air quality of emissions of air pollutants (including pollutants listed under section 108 or 112) from the major source, including in combination with existing sources of pollutants;

(C) the potential effects on soil quality and water quality of emissions of lead and other air pollutants that could contaminate soil or water from the major source, including in combination with existing sources of pollutants; and

(D) public health and any potential effects on public health from the major source.

(c) Deadline

Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this subchapter, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this subchapter for consideration of such applications), and shall issue or deny the permit, within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-third of such permits will be acted on by such authority annually over a period of not to exceed 3 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of this chapter.

(d) Timely and complete applications

Except for sources required to have a permit before construction or modification under the applicable requirements of this chapter, if an applicant has submitted a timely and complete application for a permit required by this subchapter (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this chapter, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this subchapter shall be in violation of [section 7661a\(a\) of this title](#) before the date on which the source is required to submit an application under subsection (c).

(e) Copies; availability

A copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this subchapter, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under [section 7414\(c\) of this title](#), the applicant or permittee may submit such information separately. The requirements of [section 7414\(c\) of this title](#) shall apply to such information. The contents of a permit shall not be entitled to protection under [section 7414\(c\) of this title](#).

Section 105(a)(2) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note)

SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002–2007 PLANNING AREAS OF GULF OF MEXICO.

(a) In General.-Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit-

(1) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

(2) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse-

(A) 75 percent to Gulf producing States in accordance with subsection (b); [and]

(B) [25] 20 percent to provide financial assistance to States in accordance with section 200305 of title 54, United States Code, which shall be considered income to the Land and Water Conservation Fund for purposes of section 200302 of that title [1] ; and

(C) 5 percent to provide grants under the Outdoor Recreation Legacy Partnership Grant Program established under section 11(b) of the Environmental Justice for All Act.

(b) Allocation Among Gulf Producing States and Coastal Political Subdivisions.-

(1) Allocation among gulf producing states for fiscal years 2007 through 2016.-

(A) In general.-Subject to subparagraph (B), effective for each of fiscal years 2007 through 2016, the amount made available under subsection (a)(2)(A) shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

(B) Minimum allocation.-The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(2) Allocation among gulf producing states for fiscal year 2017 and thereafter.-

(A) In general.-Subject to subparagraphs (B) and (C), effective for fiscal year 2017 and each fiscal year thereafter-

(i) the amount made available under subsection (a)(2)(A) from any lease entered into within the 181 Area or the 181 South Area shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract; and

(ii) the amount made available under subsection (a)(2)(A) from any lease entered into within the 2002–2007 planning area shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

(B) Minimum allocation.-The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(C) Historical lease sites.-

(i) In general.-Subject to clause (ii), for purposes of subparagraph (A)(ii), the historical lease sites in the 2002–2007 planning area shall include all leases entered into

by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the Secretary), and ending on December 31, 2015.

(ii) Adjustment.-Effective January 1, 2022, and every 5 years thereafter, the ending date described in clause (i) shall be extended for an additional 5 calendar years.

(3) Payments to coastal political subdivisions.-

(A) In general.-The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (2), to the coastal political subdivisions of the Gulf producing State.

(B) Allocation.-The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act ([43 U.S.C. 1356a\(b\)\(4\)](#)).

(c) Timing.-The amounts required to be deposited under paragraph (2) of subsection (a) for the applicable fiscal year shall be made available in accordance with that paragraph during the fiscal year immediately following the applicable fiscal year.

(d) Authorized Uses.-

(1) In general.-Subject to paragraph (2), each Gulf producing State and coastal political subdivision shall use all amounts received under subsection (b) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

(A) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(D) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

(E) Planning assistance and the administrative costs of complying with this section.

(2) Limitation.-Not more than 3 percent of amounts received by a Gulf producing State or coastal political subdivision under subsection (b) may be used for the purposes described in paragraph (1)(E).

(e) Administration.-Amounts made available under subsection (a)(2) shall-

(1) be made available, without further appropriation, in accordance with this section;

(2) remain available until expended; and

(3) be in addition to any amounts appropriated under-

(A) the Outer Continental Shelf Lands Act ([43 U.S.C. 1331 et seq.](#));

(B) [chapter 2003 of title 54, United States Code](#); or

(C) any other provision of law.

(f) Limitations on Amount of Distributed Qualified Outer Continental Shelf Revenues.-

(1) In general.-Subject to paragraph (2), the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed-

(A) \$500,000,000 for each of fiscal years 2016 through 2019;

(B) \$650,000,000 for each of fiscal years 2020 and 2021; and

(C) \$500,000,000 for each of fiscal years 2022 through 2055.

(2) Expenditures.-For the purpose of paragraph (1), for each of fiscal years 2016 through 2055, expenditures under subsection (a)(2) shall be net of receipts from that fiscal year from any area in the 181 Area in the Eastern Planning Area and the 181 South Area.

(3) Pro rata reductions.-If paragraph (1) limits the amount of qualified outer Continental Shelf revenue that would be paid under subparagraphs (A) and (B) of subsection (a)(2)-

(A) the Secretary shall reduce the amount of qualified outer Continental Shelf revenue provided to each recipient on a pro rata basis; and

(B) any remainder of the qualified outer Continental Shelf revenues shall revert to the general fund of the Treasury.

Section 9001(b) of the John D. Dingell, Jr. Conservation, Management, and Recreation Act
(16 U.S.C. 6804 note)

Pub. L. 116–9, title IX, §9001, Mar. 12, 2019, 133 Stat. 829, provided that:

(a) Definitions.-In this section:

(1) Federal land and waters.-The term 'Federal land and waters' means any Federal land or body of water under the jurisdiction of any of the Secretaries to which the public has access.

(2) Program.-The term 'program' means the Every Kid Outdoors program established under subsection (b)(1).

(3) Secretaries.-The term 'Secretaries' means-

(A) the Secretary [of the Interior], acting through-

(i) the Director of the National Park Service;

(ii) the Director of the United States Fish and Wildlife Service;

(iii) the Director of the Bureau of Land Management; and

(iv) the Commissioner of Reclamation;

(B) the Secretary of Agriculture, acting through the Chief of the Forest Service;

(C) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration; and

(D) the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works.

(4) State.-The term 'State' means each of the several States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and any other territory or possession of the United States.

(5) Student or students.-The term 'student' or 'students' means any fourth grader or home-schooled learner 10 years of age residing in the United States, including any territory or possession of the United States.

(b) Every Kid Outdoors Program.-

(1) Establishment.-The Secretaries shall jointly establish a program, to be known as the 'Every Kid Outdoors program', to provide free access to Federal land and waters for students and accompanying individuals in accordance with this subsection.

(2) Annual passes.-

(A) In general.-At the request of a student, the Secretaries shall issue a pass to the student, which allows access to Federal lands and waters for which access is subject to an entrance, standard amenity, or day use fee, free of charge for the student and-

(i) in the case of a per-vehicle fee area-

(I) any passengers accompanying the student in a private, noncommercial vehicle; or

(II) not more than three adults accompanying the student on bicycles; or

(ii) in the case of a per-person fee area, not more than three adults

accompanying the student.

(B) Term.-A pass described in subparagraph (A) shall be effective during the period beginning on September 1 and ending on August 31 of the following year.

(C) Presence of a student in grade four required.-A pass described in subparagraph

(A) shall be effective only if the student to which the pass was issued is present at the point of entry to the applicable Federal land or water.

- (3) Other activities.-In carrying out the program, the Secretaries-
- (A) may collaborate with State Park systems that opt to implement a complementary Every Kid Outdoors State park pass;
 - (B) may coordinate with the Secretary of Education to implement the program;
 - (C) shall maintain a publicly available website with information about the program;
 - (D) may provide visitor services for the program; and
 - (E) may support approved partners of the Federal land and waters by providing the partners with opportunities to participate in the program.
- (4) Reports.-The Secretary, in coordination with each Secretary described in subparagraphs (B) through (D) of subsection (a)(3), shall prepare a comprehensive report to Congress each year describing-
- (A) the implementation of the program;
 - (B) the number and geographical distribution of students who participated in the program; and
 - (C) the number of passes described in paragraph (2)(A) that were distributed.
- [(5) Sunset.-The authorities provided in this section, including the reporting requirement, shall expire on the date that is 7 years after the date of enactment of this Act [Mar. 12, 2019].]

The Coastal Zone Management Act of 1972 (16 U.S.C. 1455a and 1456b)

(Sec. 306A) §1455a. Coastal resource improvement program

(a) Definitions

For purposes of this section-

- (1) The term "eligible coastal state" means a coastal state that for any fiscal year for which a grant is applied for under this section-
- (A) has a management program approved under [section 1455 of this title](#); and
 - (B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in [section 1452\(2\)\(A\) through \(K\) of this title](#).
- (2) The term "urban waterfront and port" means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

(b) Resource management improvement grants

The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

- (1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by [section 1455\(d\)\(9\) of this title](#) because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.
- (2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated in the state's management program pursuant to [section 1455\(d\)\(2\)\(C\) of this title](#) as areas of particular concern.
- (3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under [section 1455\(d\)\(2\)\(G\) of this title](#).

(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.

(c) Uses, terms and conditions of grants

(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for-

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2)-

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; **and**

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section **[.]**; and

(F) fulfilling any Tribal coastal zone objective (as that term is defined in section 309A).

(d) State matching contributions; ratio; maximum amount of grants

(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) Allocation of grants to local governments and other agencies

With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under [section 3334 of title 42](#), a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

(f) Other technical and financial assistance

In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

(Sec. 309) §1456b. Coastal zone enhancement grants

(a) "Coastal zone enhancement objective" defined

For purposes of this section, the term "coastal zone enhancement objective" means any of the following objectives:

- (1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.
- (2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.
- (3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.
- (4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.
- (5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.
- (6) Preparing and implementing special area management plans for important coastal areas.
- (7) Planning for the use of ocean resources.
- (8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.
- (9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

(b) Limits on grants

- (1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.
- (2)(A) In addition to any amounts provided under [section 1455 of this title](#), and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with [section 1455\(e\) of this title](#).
- (B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

(c) Evaluation of State proposals by Secretary

The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d). The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

(d) Promulgation of regulations by Secretary

Within 12 months following November 5, 1990, and consistent with the notice and participation requirements established in [section 1463 of this title](#), the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish-

- (1) specific and detailed criteria that must be addressed by a coastal state (including the State's priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State's development and implementation of coastal zone enhancement objectives;
- (2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and
- (3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

(e) No State contribution required

A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

(f) Funding

Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement [sections 1455 and 1455a of this title](#) shall be retained by the Secretary for use in implementing this section, up to a maximum of \$10,000,000 annually.

(g) Eligibility; suspension of State for noncompliance

If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.

SEC. 309A. GRANTS TO FURTHER ACHIEVEMENT OF TRIBAL COASTAL ZONE OBJECTIVES.

(a) GRANTS AUTHORIZED.—The Secretary may award grants, on a competitive basis, to Indian Tribes to pay for the Federal share of the cost of furthering achievement of the Tribal coastal zone objectives of such a Tribe.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of any activity carried out under a grant under this section shall be—

(A) in the case of a grant of less than \$200,000, 100 percent of such cost; and

(B) in the case of a grant of \$200,000 or more, 95 percent of such cost, except as provided in paragraph (2).

(2) WAIVER.—The Secretary may waive the application of paragraph (1)(B) with respect to a grant to an Indian Tribe, or otherwise reduce the portion of the share of the cost of an activity required to be paid by an Indian Tribe under such paragraph, if the Secretary determines that the Tribe does not have sufficient funds to pay such portion.

(c) COMPATIBILITY.—The Secretary may not award a grant under this section to an Indian Tribe unless the Secretary determines that the activities to be carried out under the grant are compatible with this title and that the Indian Tribe has consulted with the affected coastal state regarding the grant objectives and purposes.

(d) AUTHORIZED OBJECTIVES AND PURPOSES.—An Indian Tribe that receives a grant under this section shall use the grant funds for one or more of the objectives and purposes authorized under subsections (b) and (c), respectively, of section 306A, with respect to the Indian Tribe and its Tribal coastal zone. In applying section 306A(b) under this subsection, a reference in that section to a provision shall be considered to be a corresponding provision or policy for an Indian Tribe.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$5,000,000 for each fiscal year.

(f) **DEFINITIONS.**—In this section:

(1) **INDIAN LAND; INDIAN TRIBE.**—The term 'Indian land' has the meaning given the term, and the term 'Indian Tribe' has the meaning given the term 'Indian tribe', under section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501).

(2) **TRIBAL COASTAL ZONE.**—The term 'Tribal coastal zone' means any Indian land of an Indian Tribe that is within the coastal zone.

(3) **TRIBAL COASTAL ZONE OBJECTIVE.**—The term 'Tribal coastal zone objective' means, with respect to an Indian Tribe and its Tribal coastal zone, any of the following objectives:

(A) Protection, restoration, or preservation of areas in that zone of that Tribe that—

(i) hold important ecological, cultural, or sacred significance for such Tribe; or

(ii) reflect traditional, historic, and esthetic values essential to such Tribe.

(B) Preparing and implementing a special area management plan and technical planning for important coastal areas.

(C) Taking any coastal or shoreline stabilization measure, including any mitigation measure, for the purpose of public safety, public access, or cultural or historical preservation.

Section 502 and Chapter VI of the Federal Food, Drug, and Cosmetic Act
(21 U.S.C. 361 et seq.)

(Sec. 501) §352. Misbranded drugs and devices

A drug or device shall be deemed to be misbranded-

(a) False or misleading label

(1) If its labeling is false or misleading in any particular. Health care economic information provided to a payor, formulary committee, or other similar entity with knowledge and expertise in the area of health care economic analysis, carrying out its responsibilities for the selection of drugs for coverage or reimbursement, shall not be considered to be false or misleading under this paragraph if the health care economic information relates to an indication approved under [section 355 of this title](#) or under [section 262\(a\) of title 42](#) for such drug, is based on competent and reliable scientific evidence, and includes, where applicable, a conspicuous and prominent statement describing any material differences between the health care economic information and the labeling approved for the drug under [section 355 of this title](#) or under [section 262 of title 42](#). The requirements set forth in [section 355\(a\) of this title](#) or in subsections (a) and (k) of [section 262 of title 42](#) shall not apply to health care economic information provided to such a payor, committee, or entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request.

(2)(A) For purposes of this paragraph,¹ the term "health care economic information" means any analysis (including the clinical data, inputs, clinical or other assumptions, methods, results, and other components underlying or comprising the analysis) that identifies, measures, or describes the economic consequences, which may be based on the separate or aggregated clinical consequences of the represented health outcomes, of the use of a drug. Such analysis may be comparative to the use of another drug, to another health care intervention, or to no intervention.

(B) Such term does not include any analysis that relates only to an indication that is not approved under [section 355 of this title](#) or under [section 262 of title 42](#) for such drug.

(b) Package form; contents of label

If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) Prominence of information on label

If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) Repealed. Pub. L. 105–115, title I, §126(b), Nov. 21, 1997, 111 Stat. 2327

(e) Designation of drugs or devices by established names

(1)(A) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula)-

(i) the established name (as defined in subparagraph (3)) of the drug, if there is such a name;

(ii) the established name and quantity or, if determined to be appropriate by the Secretary, the proportion of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including whether active or not the established name and quantity or if determined to be appropriate by the Secretary, the proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscyne, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein, except that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subclause, shall not apply to nonprescription drugs not intended for human use; and

(iii) the established name of each inactive ingredient listed in alphabetical order on the outside container of the retail package and, if determined to be appropriate by the Secretary, on the immediate container, as prescribed in regulation promulgated by the Secretary, except that nothing in this subclause shall be deemed to require that any trade secret be divulged, and except that the requirements of this subclause with respect to alphabetical order shall apply only to nonprescription drugs that are not also cosmetics and that this subclause shall not apply to nonprescription drugs not intended for human use.

(B) For any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) shall be printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient, except that to the extent that compliance with the requirements of subclause (ii) or (iii) of clause (A) or this clause is impracticable, exemptions shall be established by regulations promulgated by the Secretary.

(2) If it is a device and it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name (as defined in subparagraph (4)) prominently printed in type at least half as large as that used thereon for any proprietary name or designation for such device, except that to the extent compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary.

(3) As used in subparagraph (1), the term "established name", with respect to a drug or ingredient thereof, means (A) the applicable official name designated pursuant to [section 358 of](#)

this title, or (B), if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient, except that where clause (B) of this subparagraph applies to an article recognized in the United States Pharmacopeia and in the Homoeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopeia shall apply unless it is labeled and offered for sale as a homoeopathic drug, in which case the official title used in the Homoeopathic Pharmacopoeia shall apply.

(4) As used in subparagraph (2), the term "established name" with respect to a device means (A) the applicable official name of the device designated pursuant to [section 358 of this title](#), (B) if there is no such name and such device is an article recognized in an official compendium, then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then any common or usual name of such device.

(f) Directions for use and warnings on label

Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users, except that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement. Required labeling for prescription devices intended for use in health care facilities or by a health care professional and required labeling for in vitro diagnostic devices intended for use by health care professionals or in blood establishments may be made available solely by electronic means, provided that the labeling complies with all applicable requirements of law, and that the manufacturer affords such users the opportunity to request the labeling in paper form, and after such request, promptly provides the requested information without additional cost.

(g) Representations as recognized drug; packing and labeling; inconsistent requirements for designation of drug

If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The method of packing may be modified with the consent of the Secretary. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States, and not those of the United States Pharmacopoeia, except that in the event of inconsistency between the requirements of this paragraph and those of paragraph (e) as to the name by which the drug or its ingredients shall be designated, the requirements of paragraph (e) shall prevail.

(h) Deteriorative drugs; packing and labeling

If it has been found by the Secretary to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary shall by regulations require as necessary for the protection of the public health. No such regulation shall be established for any drug recognized in an official compendium until the Secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) Drug; misleading container; imitation; offer for sale under another name

(1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) Health-endangering when used as prescribed

If it is dangerous to health when used in the dosage or manner, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k), (l) Repealed. Pub. L. 105–115, title I, §125(a)(2)(B), (b)(2)(D), Nov. 21, 1997, 111 Stat. 2325

(m) Color additives; packing and labeling

If it is a color additive the intended use of which is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive, as may be contained in regulations issued under [section 379e of this title](#).

(n) Prescription drug advertisements: established name; quantitative formula; side effects, contraindications, and effectiveness; prior approval; false advertising; labeling; construction of the Convention on Psychotropic Substances

In the case of any prescription drug distributed or offered for sale in any State, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of (1) the established name as defined in paragraph (e), printed prominently and in type at least half as large as that used for any trade or brand name thereof, (2) the formula showing quantitatively each ingredient of such drug to the extent required for labels under paragraph (e), and (3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations which shall be issued by the Secretary in accordance with [section 371\(a\) of this title](#), and in the case of published direct-to-consumer advertisements the following statement printed in conspicuous text: "You are encouraged to report negative side effects of prescription drugs to the FDA. Visit [www.fda.gov/medwatch](#), or call 1–800-FDA-1088.", except that (A) except in extraordinary circumstances, no regulation issued under this paragraph shall require prior approval by the Secretary of the content of any advertisement, and (B) no advertisement of a prescription drug, published after the effective date of regulations issued under this paragraph applicable to advertisements of prescription drugs, shall with respect to the matters specified in this paragraph or covered by such regulations, be subject to the provisions of [sections 52 to 57 of title 15](#). This paragraph (n) shall not be applicable to any printed matter which the Secretary determines to be labeling as defined in [section 321\(m\) of this title](#). Nothing in the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, shall be construed to prevent drug price communications to consumers. In the case of an advertisement for a drug subject to [section 353\(b\)\(1\) of this title](#) presented directly to consumers in television or radio format and stating the name of the drug and its conditions of use, the major statement relating to side effects and contraindications shall be presented in a clear, conspicuous, and neutral manner.

(o) Drugs or devices from nonregistered establishments

If it was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under [section 360 of this title](#), if it is a drug and was imported or offered for import by a commercial importer of drugs not duly registered under [section 381\(s\) of this title](#), if it was not included in a list required by [section 360\(j\) of this title](#), if a notice or other information respecting it was not provided as required by such section or [section 360\(k\) of this title](#), or if it does not bear such symbols from the uniform system for identification of devices prescribed under [section 360\(e\) of this title](#) as the Secretary by regulation requires.

(p) Packaging or labeling of drugs in violation of regulations

If it is a drug and its packaging or labeling is in violation of an applicable regulation issued pursuant to [section 1472 or 1473 of title 15](#).

(q) Restricted devices using false or misleading advertising or used in violation of regulations

In the case of any restricted device distributed or offered for sale in any State, if (1) its advertising is false or misleading in any particular, or (2) it is sold, distributed, or used in violation of regulations prescribed under [section 360j\(e\) of this title](#).

(r) Restricted devices not carrying requisite accompanying statements in advertisements and other descriptive printed matter

In the case of any restricted device distributed or offered for sale in any State, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that device (1) a true statement of the device's established name as defined in subsection (e), printed prominently and in type at least half as large as that used for any trade or brand name thereof, and (2) a brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications and, in the case of specific devices made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such device or the formula showing quantitatively each ingredient of such device to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing. Except in extraordinary circumstances, no regulation issued under this paragraph shall require prior approval by the Secretary of the content of any advertisement and no advertisement of a restricted device, published after the effective date of this paragraph shall, with respect to the matters specified in this paragraph or covered by regulations issued hereunder, be subject to the provisions of [sections 52 through 55 of title 15](#). This paragraph shall not be applicable to any printed matter which the Secretary determines to be labeling as defined in [section 321\(m\) of this title](#).

(s) Devices subject to performance standards not bearing requisite labeling

If it is a device subject to a performance standard established under [section 360d of this title](#), unless it bears such labeling as may be prescribed in such performance standard.

(t) Devices for which there has been a failure or refusal to give required notification or to furnish required material or information

If it is a device and there was a failure or refusal (1) to comply with any requirement prescribed under [section 360h of this title](#) respecting the device, (2) to furnish any material or information required by or under [section 360i of this title](#) respecting the device, or (3) to comply with a requirement under [section 360l of this title](#).

(u) Identification of manufacturer

(1) Subject to paragraph (2), if it is a reprocessed single-use device, unless it, or an attachment thereto, prominently and conspicuously bears the name of the manufacturer of the reprocessed device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer.

(2) If the original device or an attachment thereto does not prominently and conspicuously bear the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, a reprocessed device may satisfy the requirements of paragraph (1) through the use of a detachable label on the packaging that identifies the manufacturer and is intended to be affixed to the medical record of a patient.

(v) Reprocessed single-use devices

If it is a reprocessed single-use device, unless all labeling of the device prominently and conspicuously bears the statement "Reprocessed device for single use. Reprocessed by ____." The name of the manufacturer of the reprocessed device shall be placed in the space identifying the person responsible for reprocessing.

(w) New animal drugs

If it is a new animal drug-

(1) that is conditionally approved under [section 360ccc of this title](#) and its labeling does not conform with the approved application or [section 360ccc\(f\) of this title](#), or that is not conditionally approved under [section 360ccc of this title](#) and its label bears the statement set forth in [section 360ccc\(f\)\(1\)\(A\) of this title](#);

(2) that is indexed under [section 360ccc-1 of this title](#) and its labeling does not conform with the index listing under [section 360ccc-1\(e\) of this title](#) or [360ccc-1\(h\) of this title](#), or that has not been indexed under [section 360ccc-1 of this title](#) and its label bears the statement set forth in [section 360ccc-1\(h\) of this title](#); or

(3) for which an application has been approved under [section 360b of this title](#) and the labeling of such drug does not include the application number in the format: "Approved by FDA under (A)NADA # xxx-xxx", except that this subparagraph shall not apply to representative labeling required under [section 514.1\(b\)\(3\)\(v\)\(b\) of title 21, Code of Federal Regulations](#) (or any successor regulation) for animal feed bearing or containing a new animal drug.

(x) Nonprescription drugs

If it is a nonprescription drug (as defined in [section 379aa of this title](#)) that is marketed in the United States, unless the label of such drug includes a domestic address or domestic phone number through which the responsible person (as described in [section 379aa of this title](#)) may receive a report of a serious adverse event (as defined in [section 379aa of this title](#)) with such drug.

(y) Drugs subject to approved risk evaluation and mitigation strategy

If it is a drug subject to an approved risk evaluation and mitigation strategy pursuant to [section 355\(p\) of this title](#) and the responsible person (as such term is used in [section 355-1 of this title](#)) fails to comply with a requirement of such strategy provided for under subsection (d), (e), or (f) of [section 355-1 of this title](#).

(z) Postmarket studies and clinical trials; new safety information in labeling

If it is a drug, and the responsible person (as such term is used in [section 355\(o\) of this title](#)) is in violation of a requirement established under paragraph (3) (relating to postmarket studies and clinical trials) or paragraph (4) (relating to labeling) of [section 355\(o\) of this title](#) with respect to such drug.

(aa) Unpaid fees; failure to submit identifying information

If it is a drug, or an active pharmaceutical ingredient, and it was manufactured, prepared, propagated, compounded, or processed in a facility for which fees have not been paid as required by [section 379j-42\(a\)\(4\) of this title](#) or for which identifying information required by [section 379j-42\(f\) of this title](#) has not been submitted, or it contains an active pharmaceutical ingredient that was manufactured, prepared, propagated, compounded, or processed in such a facility.

(bb) False or misleading advertisement or promotion of compounded drug

If the advertising or promotion of a compounded drug is false or misleading in any particular.

(cc) Failure to bear product identifier

If it is a drug and it fails to bear the product identifier as required by [section 360eee–1 of this title](#).

(dd) Improper labeling of antimicrobial drugs

If it is an antimicrobial drug, as defined in [section 360a–2\(f\) of this title](#), and its labeling fails to conform with the requirements under [section 360a–2\(d\) of this title](#).

(ee) Nonprescription drug subject to regulation

If it is a nonprescription drug that is subject to [section 355h of this title](#), is not the subject of an application approved under [section 355 of this title](#), and does not comply with the requirements under [section 355h of this title](#).

(ff) Drugs manufactured, prepared, propagated, compounded, or processed in facilities for which fees have not been paid

If it is a drug and it was manufactured, prepared, propagated, compounded, or processed in a facility for which fees have not been paid as required by [section 379j–72 of this title](#).

(gg) If it is a menstrual product, such as a menstrual cup, a scented, scented deodorized, or unscented menstrual pad or tampon, a therapeutic vaginal douche apparatus, or an obstetrical and gynecological device described in section 884.5400, 884.5425, 884.5435, 884.5460, 884.5470, or 884.5900 of title 21, Code of Federal Regulations (or any successor regulation), unless its label or labeling lists the name of each ingredient or component of the product in order of the most predominant ingredient or component to the least predominant ingredient or component.

(Sec. 601) §361. Adulterated cosmetics

A cosmetic shall be deemed to be adulterated-

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual, except that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution-This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it is, or it bears or contains, a color additive which is unsafe within the meaning of [section 379e\(a\) of this title](#).

(Sec. 602) §362. Misbranded cosmetics

A cosmetic shall be deemed to be misbranded-

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of

this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

(e) If it is a color additive, unless its packaging and labeling are in conformity with such packaging and labeling requirements, applicable to such color additive, as may be contained in regulations issued under [section 379e of this title](#). This paragraph shall not apply to packages of color additives which, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes (as defined in the last sentence of [section 361\(a\) of this title](#)).

(f) If its packaging or labeling is in violation of an applicable regulation issued pursuant to [section 1472 or 1473 of title 15](#).

(g) If its labeling does not conform with a requirement under [section 604](#).

(Sec. 603) §363. Regulations making exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

SEC. 604. LABELING.

(a) COSMETIC PRODUCTS FOR PROFESSIONAL USE.—

(1) DEFINITION OF PROFESSIONAL.—With respect to cosmetics, the term ‘professional’ means an individual who—

(A) is licensed by an official State authority to practice in the field of cosmetology, nail care, barbering, or esthetics;

(B) has complied with all requirements set forth by the State for such licensing; and

(C) has been granted a license by a State board or legal agency or legal authority.

(2) LISTING OF INGREDIENTS.—Cosmetic products used and sold by professionals shall list all ingredients and warnings, as required for other cosmetic products under this chapter.

(3) PROFESSIONAL USE LABELING.—In the case of a cosmetic product intended to be used only by a professional on account of a specific ingredient or increased concentration of an ingredient that requires safe handling by trained professionals, the product shall bear a statement as follows: ‘To be Administered Only by Licensed Professionals’.

(b) DISPLAY REQUIREMENTS.—A listing required under subsection (a)(2) and a statement required under subsection (a)(3) shall be prominently displayed—

(1) in the primary language used on the label; and

(2) in conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed on the label.

(c) INTERNET SALES.—In the case of internet sales of cosmetics, each internet website offering a cosmetic product for sale to consumers shall provide the same information that is included on the packaging of the cosmetic product as regularly available through in-person sales, except information that is unique to a single cosmetic product sold in a retail facility, such as a lot number or expiration date, and the warnings and statements described in subsection (b) shall be prominently and conspicuously displayed on the website.

(d) **CONTACT INFORMATION.**—The label on each cosmetic shall bear the domestic telephone number or electronic contact information, and it is encouraged that the label include both the telephone number and electronic contact information, that consumers may use to contact the responsible person with respect to adverse events. The contact number shall provide a means for consumers to obtain additional information about ingredients in a cosmetic, including the ability to ask if a specific ingredient may be present that is not listed on the label, including whether a specific ingredient may be contained in the fragrance or flavor used in the cosmetic. The manufacturer of the cosmetic is responsible for providing such information, including obtaining the information from suppliers if it is not readily available. Suppliers are required to release such information upon request of the cosmetic manufacturer.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 2851 et seq.)

§285I. Purpose of Institute

The general purpose of the National Institute of Environmental Health Sciences (in this subpart referred to as the "Institute") is the conduct and support of research, training, health information dissemination, and other programs with respect to factors in the environment that affect human health, directly or indirectly.

§285I–1. Applied Toxicological Research and Testing Program

(a) There is established within the Institute a program for conducting applied research and testing regarding toxicology, which program shall be known as the Applied Toxicological Research and Testing Program.

(b) In carrying out the program established under subsection (a), the Director of the Institute shall, with respect to toxicology, carry out activities—

- (1) to expand knowledge of the health effects of environmental agents;
- (2) to broaden the spectrum of toxicology information that is obtained on selected chemicals;
- (3) to develop and validate assays and protocols, including alternative methods that can reduce or eliminate the use of animals in acute or chronic safety testing;
- (4) to establish criteria for the validation and regulatory acceptance of alternative testing and to recommend a process through which scientifically validated alternative methods can be accepted for regulatory use;
- (5) to communicate the results of research to government agencies, to medical, scientific, and regulatory communities, and to the public; and
- (6) to integrate related activities of the Department of Health and Human Services.

§285I–2. Definitions

In sections 285I–2 to 285I–5 of this title:

(1) Alternative test method

The term "alternative test method" means a test method that—

- (A) includes any new or revised test method; and
- (B)(i) reduces the number of animals required;
- (ii) refines procedures to lessen or eliminate pain or distress to animals, or enhances animal well-being; or

(iii) replaces animals with non-animal systems or one animal species with a phylogenetically lower animal species, such as replacing a mammal with an invertebrate.

(2) ICCVAM test recommendation

The term "ICCVAM test recommendation" means a summary report prepared by the ICCVAM characterizing the results of a scientific expert peer review of a test method.

§285I–3. Interagency Coordinating Committee on the Validation of Alternative Methods

(a) In general

With respect to the interagency coordinating committee that is known as the Interagency Coordinating Committee on the Validation of Alternative Methods (referred to in [sections 285I–2 to 285I–5 of this title](#) as "ICCVAM") and that was established by the Director of the National Institute of Environmental Health Sciences for purposes of [section 285I–1\(b\) of this title](#), the Director of the Institute shall designate such committee as a permanent interagency coordinating committee of the Institute under the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods. [Sections 285I–2 to 285I–5 of this title](#) may not be construed as affecting the authorities of such Director regarding ICCVAM that were in effect on the day before December 19, 2000, except to the extent inconsistent with [sections 285I–2 to 285I–5 of this title](#).

(b) Purposes

The purposes of the ICCVAM shall be to-

- (1) increase the efficiency and effectiveness of Federal agency test method review;
- (2) eliminate unnecessary duplicative efforts and share experiences between Federal regulatory agencies;
- (3) optimize utilization of scientific expertise outside the Federal Government;
- (4) ensure that new and revised test methods are validated to meet the needs of Federal agencies; and
- (5) reduce, refine, or replace the use of animals in testing, where feasible.

(c) Composition

The ICCVAM shall be composed of the heads of the following Federal agencies (or their designees):

- (1) Agency for Toxic Substances and Disease Registry.
- (2) Consumer Product Safety Commission.
- (3) Department of Agriculture.
- (4) Department of Defense.
- (5) Department of Energy.
- (6) Department of the Interior.
- (7) Department of Transportation.
- (8) Environmental Protection Agency.
- (9) Food and Drug Administration.
- (10) National Institute for Occupational Safety and Health.
- (11) National Institutes of Health.
- (12) National Cancer Institute.
- (13) National Institute of Environmental Health Sciences.
- (14) National Library of Medicine.
- (15) Occupational Safety and Health Administration.

(16) Any other agency that develops, or employs tests or test data using animals, or regulates on the basis of the use of animals in toxicity testing.

(d) Scientific Advisory Committee

(1) Establishment

The Director of the National Institute of Environmental Health Sciences shall establish a Scientific Advisory Committee (referred to in [sections 285I–2 to 285I–5 of this title](#) as the "SAC") to advise ICCVAM and the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods regarding ICCVAM activities. The activities of the SAC shall be subject to provisions of the Federal Advisory Committee Act.

(2) Membership

(A) In general

The SAC shall be composed of the following voting members:

- (i) At least one knowledgeable representative having a history of expertise, development, or evaluation of new or revised or alternative test methods from each of:
 - (I) the personal care, pharmaceutical, industrial chemicals, or agriculture industry;
 - (II) any other industry that is regulated by the Federal agencies specified in subsection (c); and
 - (III) a national animal protection organization established under [section 501\(c\)\(3\) of title 26](#).
- (ii) Representatives (selected by the Director of the National Institute of Environmental Health Sciences) from an academic institution, a State government agency, an international regulatory body, or any corporation developing or marketing new or revised or alternative test methodologies, including contract laboratories.

(B) Nonvoting ex officio members

The membership of the SAC shall, in addition to voting members under subparagraph (A), include as nonvoting ex officio members the agency heads specified in subsection (c) (or their designees).

(e) Duties

The ICCVAM shall, consistent with the purposes described in subsection (b), carry out the following functions:

- (1) Review and evaluate new or revised or alternative test methods, including batteries of tests and test screens, that may be acceptable for specific regulatory uses, including the coordination of technical reviews of proposed new or revised or alternative test methods of interagency interest.
- (2) Facilitate appropriate interagency and international harmonization of acute or chronic toxicological test protocols that encourage the reduction, refinement, or replacement of animal test methods.
- (3) Facilitate and provide guidance on the development of validation criteria, validation studies and processes for new or revised or alternative test methods and help facilitate the acceptance of such scientifically valid test methods and awareness of accepted test methods by Federal agencies and other stakeholders.
- (4) Submit ICCVAM test recommendations for the test method reviewed by the ICCVAM, through expeditious transmittal by the Secretary of Health and Human Services (or the designee of the Secretary), to each appropriate Federal agency, along with the identification of specific agency guidelines, recommendations, or regulations for a test method, including batteries of tests and test screens, for chemicals or class of chemicals within a regulatory framework that may be appropriate for scientific improvement, while seeking to reduce, refine, or replace animal test methods.

- (5) Consider for review and evaluation, petitions received from the public that-
 - (A) identify a specific regulation, recommendation, or guideline regarding a regulatory mandate; and
 - (B) recommend new or revised or alternative test methods and provide valid scientific evidence of the potential of the test method.
- (6) Make available to the public final ICCVAM test recommendations to appropriate Federal agencies and the responses from the agencies regarding such recommendations.
- (7) Prepare reports to be made available to the public on its progress under [sections 285I–2 to 285I–5 of this title](#). The first report shall be completed not later than 12 months after December 19, 2000, and subsequent reports shall be completed biennially thereafter.

§285I–4. Federal agency action

(a) Identification of tests

With respect to each Federal agency carrying out a program that requires or recommends acute or chronic toxicological testing, such agency shall, not later than 180 days after receiving an ICCVAM test recommendation, identify and forward to the ICCVAM any relevant test method specified in a regulation or industry-wide guideline which specifically, or in practice requires, recommends, or encourages the use of an animal acute or chronic toxicological test method for which the ICCVAM test recommendation may be added or substituted.

(b) Alternatives

Each Federal agency carrying out a program described in subsection (a) shall promote and encourage the development and use of alternatives to animal test methods (including batteries of tests and test screens), where appropriate, for the purpose of complying with Federal statutes, regulations, guidelines, or recommendations (in each instance, and for each chemical class) if such test methods are found to be effective for generating data, in an amount and of a scientific value that is at least equivalent to the data generated from existing tests, for hazard identification, dose-response assessment, or risk assessment purposes.

(c) Test method validation

Each Federal agency carrying out a program described in subsection (a) shall ensure that any new or revised acute or chronic toxicity test method, including animal test methods and alternatives, is determined to be valid for its proposed use prior to requiring, recommending, or encouraging the application of such test method.

(d) Review

Not later than 180 days after receipt of an ICCVAM test recommendation, a Federal agency carrying out a program described in subsection (a) shall review such recommendation and notify the ICCVAM in writing of its findings.

(e) Recommendation adoption

Each Federal agency carrying out a program described in subsection (a), or its specific regulatory unit or units, shall adopt the ICCVAM test recommendation unless such Federal agency determines that-

- (1) the ICCVAM test recommendation is not adequate in terms of biological relevance for the regulatory goal authorized by that agency, or mandated by Congress;
- (2) the ICCVAM test recommendation does not generate data, in an amount and of a scientific value that is at least equivalent to the data generated prior to such recommendation, for the appropriate hazard identification, dose-response assessment, or risk assessment purposes as the current test method recommended or required by that agency;

- (3) the agency does not employ, recommend, or require testing for that class of chemical or for the recommended test endpoint; or
- (4) the ICCVAM test recommendation is unacceptable for satisfactorily fulfilling the test needs for that particular agency and its respective congressional mandate.

§285I–5. Application

(a) Application

Sections 285I–2 to 285I–5 of this title shall not apply to research, including research performed using biotechnology techniques, or research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases or impairments of humans or animals.

(b) Use of test methods

Nothing in sections 285I–2 to 285I–5 of this title shall prevent a Federal agency from retaining final authority for incorporating the test methods recommended by the ICCVAM in the manner determined to be appropriate by such Federal agency or regulatory body.

(c) Limitation

Nothing in sections 285I–2 to 285I–5 of this title shall be construed to require a manufacturer that is currently not required to perform animal testing to perform such tests. Nothing in sections 285I–2 to 285I–5 of this title shall be construed to require a manufacturer to perform redundant endpoint specific testing.

(d) Submission of tests and data

Nothing in sections 285I–2 to 285I–5 of this title precludes a party from submitting a test method or scientific data directly to a Federal agency for use in a regulatory program.

§285I–6. Methods of controlling certain insect and vermin populations

The Director of the Institute shall conduct or support research to identify or develop methods of controlling insect and vermin populations that transmit to humans diseases that have significant adverse health consequences.

SEC. 463C. RESEARCH ON HEALTH DISPARITIES RELATED TO COSMETICS IMPACTING COMMUNITIES OF COLOR.

(a) IN GENERAL.—The Director of the Institute shall award grants to eligible entities—

(1) to expand support for basic, epidemiological, and social scientific investigations into—

(A) the chemicals linked (or with possible links) to adverse health effects most commonly found in cosmetics marketed to women and girls of color, including beauty, personal hygiene, and intimate care products;

(B) the marketing and sale of such cosmetics containing chemicals linked to adverse health effects to women and girls of color across their lifespans;

(C) the use of such cosmetics by women and girls of color across their lifespans; or

(D) the chemicals linked to the adverse health effects most commonly found in products used by nail, hair, and beauty salon workers;

(2) to provide educational awareness and community outreach efforts to educate the promote the use of safer alternatives in cosmetics; and

(3) to disseminate the results of any such research described in subparagraph (A) or (B) of paragraph (1) (conducted by the grantee pursuant to this section or otherwise) to help

communities identify and address potentially unsafe chemical exposures in the use of cosmetics.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a public institution such as a university, a nonprofit research institution, or a nonprofit grassroots organization; and

(2) not benefit from a financial relationship with a chemical or cosmetics manufacturer, supplier, or trade association.

(c) REPORT.—Not later than the end 1 year after awarding grants under this section, and each year thereafter, the Director of the Institute shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and make publicly available, a report on the results of the investigations funded under subsection (a), including—

(1) summary findings on—

(A) marketing strategies, product categories, and specific cosmetics containing ingredients linked to adverse health effects; and

(B) the demographics of the populations marketed to and using cosmetics containing such ingredients for personal and professional use; and

(2) recommended public health information strategies to reduce potentially unsafe exposures to cosmetics.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2022 through 2026.

Sections 7, 17, 31, 35 of the Mineral Leasing Act (30 U.S.C. 188, 191, 207, 226)

(Sec. 7(a)) §207. Conditions of lease

(a) Term of lease; annual rentals; royalties; readjustment of conditions

A coal lease shall be for a term of twenty years and for so long thereafter as coal is produced annually in commercial quantities from that lease. Any lease which is not producing in commercial quantities at the end of ten years shall be terminated. The Secretary shall by regulation prescribe annual rentals on leases. A lease shall require payment of a royalty in such amount as the Secretary shall determine of not less than **[12½ per centum] 18.75 percent** of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations. The lease shall include such other terms and conditions as the Secretary shall determine. Such rentals and royalties and other terms and conditions of the lease will be subject to readjustment at the end of its primary term of twenty years and at the end of each ten-year period thereafter if the lease is extended.

(b) Diligent development and continued operation; suspension of condition on payment of advance royalties

(1) Each lease shall be subject to the conditions of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

(2) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

(3) Advance royalties described in paragraph (2) shall be no less than the production royalty which would otherwise be paid and shall be computed on a fixed reserve to production ratio (determined by the Secretary).

(4) Advance royalties described in paragraph (2) shall be computed-

(A) based on-

(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

(6) ¹ The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

(6) ¹ The Secretary may, upon six months' notification to the lessee cease to accept advance royalties in lieu of the requirement of continued operation.

(7) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of ten years.

(c) Operation and reclamation plan

Prior to taking any action on a leasehold which might cause a significant disturbance of the environment, the lessee shall submit for the Secretary's approval an operation and reclamation plan. The Secretary shall approve or disapprove the plan or require that it be modified. Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval.

(Sec. 17) §226. Lease of oil and gas lands

(a) Authority of Secretary

All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits may be leased by the Secretary.

(b) Lands within known geologic structure of a producing oil or gas field; lands within special tar sand areas; competitive bidding; royalties

(1)(A) All lands to be leased which are not subject to leasing under paragraphs (2) and (3) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding, except as provided in subparagraph (C). Lease sales [shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary] may be held in each State not more than once each year. A lease shall be conditioned upon the payment of a royalty at a rate of not less than [12.5] 18.75 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are

received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

(B) The national minimum acceptable bid shall be \$2 per acre for a period of 2 years from December 22, 1987. Thereafter, the Secretary, subject to paragraph (2)(B), may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of [section 4332\(2\)\(C\) of title 42](#).

(C) In order to diversify and expand the Nation's onshore leasing program to ensure the best return to the Federal taxpayer, reduce fraud, and secure the leasing process, the Secretary may conduct onshore lease sales through Internet-based bidding methods. Each individual Internet-based lease sale shall conclude within 7 days.

(2)(A)(i) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 5,760 acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary.

(ii) Royalty shall be [12½ per centum](#) [18.75 percent](#) in amount or value of production removed or sold from the lease, subject to subsection (k)(1)(c).

(iii) The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.

(iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.

(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this chapter, separately-

- (i) a lease for exploration for and extraction of tar sand; and
- (ii) a lease for exploration for and development of oil and gas.

(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be \$2 per acre.

(D) The Secretary may waive, suspend, or alter any requirement under [section 183 of this title](#) that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.

(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

(B) An election under this paragraph is effective-

- (i) in the case of an interest which vested after January 1, 1990, and on or before October 24, 1992, if the election is made before the date that is 1 year after October 24, 1992;
- (ii) in the case of an interest which vests within 1 year after October 24, 1992, if the election is made before the date that is 2 years after October 24, 1992; and
- (iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

(C) Notwithstanding the consent requirement referenced in [section 352 of this title](#), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this chapter. Such lease shall be subject to all terms and conditions under this chapter that are applicable to leases issued under subsection (c)(1).

(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).

(c) Lands subject to leasing under subsection (b); first qualified applicant

(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least \$75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of [12.5](#) [18.75](#) percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(d) Annual rentals

All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than \$1.50 per acre per year for the first through fifth years of the lease and not less than \$2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(e) Primary terms

Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however*, That competitive leases issued in special tar sand areas shall also be for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(f) Notice of proposed action; posting of notice; terms and maps

At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially

modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

(g) Regulation of surface-disturbing activities; approval of plan of operations; bond or surety; failure to comply with reclamation requirements as barring lease; opportunity to comply with requirements

The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this chapter, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this chapter.

(h) National Forest System Lands

The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.

(i) Termination

No lease issued under this section which is subject to termination because of cessation of production shall be terminated for this cause so long as reworking or drilling operations which were commenced on the land prior to or within sixty days after cessation of production are conducted thereon with reasonable diligence, or so long as oil or gas is produced in paying quantities as a result of such operations. No lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than sixty days after notice by registered or certified mail, within which to place such well in producing status or

unless, after such status is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this chapter.

(j) Drainage agreements; primary term of lease, extension

Whenever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage. Such agreements shall be made with the consent of the lessees, if any, affected thereby. If such agreement is entered into, the primary term of any lease for which compensatory royalty is being paid, or any extension of such primary term, shall be extended for the period during which such compensatory royalty is paid and for a period of one year from discontinuance of such payment and so long thereafter as oil or gas is produced in paying quantities.

(k) Mining claims; suspension of running time of lease

If, during the primary term or any extended term of any lease issued under this section, a verified statement is filed by any mining claimant pursuant to subsection (c) of [section 527 of this title](#), whether such filing occur prior to September 2, 1960 or thereafter, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted as to any lands covered by the lease, the running of time under such lease shall be suspended as to the lands involved from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

(l) Exchange of leases; conditions

The Secretary of the Interior shall, upon timely application therefor, issue a new lease in exchange for any lease issued for a term of twenty years, or any renewal thereof, or any lease issued prior to August 8, 1946, in exchange for a twenty-year lease, such new lease to be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and at a royalty rate of not less than **12½ per centum** **18.75 percent** in amount or value of the production removed or sold from such leases, except that the royalty rate shall be **12½ per centum** **18.75 percent** in amount or value of the production removed or sold from said leases as to (1) such leases, or such parts of the lands subject thereto and the deposits underlying the same, as are not believed to be within the productive limits of any producing oil or gas deposit, as such productive limits are found by the Secretary to have existed on August 8, 1946; and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved cooperative or unit plan of development or operation from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such plan, and which is determined by the Secretary to be a new deposit, where such lease, or a lease for which it is exchanged, was included in such plan at the time of discovery or was included in a duly executed and filed application for the approval of such plan at the time of discovery.

(m) Cooperative or unit plan; authority of Secretary of the Interior to alter or modify; communitization or drilling agreements; term of lease, conditions; Secretary to approve operating, drilling or development contracts, and subsurface storage

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary

is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this chapter shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph which includes lands owned by the United States may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this chapter.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

Any lease issued for a term of twenty years, or any renewal thereof, or any portion of such lease that has become the subject of a cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the Secretary of the Interior, shall continue in force until the termination of such plan. Any other lease issued under any section of this chapter which has heretofore or may hereafter be committed to any such plan that contains a general provision for allocation of oil or gas shall continue in force and effect as to the land committed so long as the lease remains subject to the plan: *Provided*, That production is had in paying quantities under the plan prior to the expiration date of the term of such lease. Any lease heretofore or hereafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however*, That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities. The minimum royalty or discovery rental under any lease that has become subject to any cooperative or unit plan of development or operation, or other plan that contains a general provision for allocation of oil or gas, shall be payable only with respect to the lands subject to such lease to which oil or gas shall be allocated under such plan. Any lease which shall be eliminated from any such approved or prescribed plan, or from any communitization or drilling agreement authorized by this section, and any lease which shall be in effect at the termination of any such approved or prescribed plan, or at the termination of any such communitization or drilling agreement, unless relinquished, shall continue in effect for the original term thereof, but for not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

The Secretary of the Interior is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require it or the

interests of the United States may be best subserved thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under the provisions of this chapter.

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this chapter. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(n) Conversion of oil and gas leases and claims on hydrocarbon resources to combined hydrocarbon leases for primary term of 10 years; application

(1)(A) The owner of (1) an oil and gas lease issued prior to November 16, 1981, or (2) a valid claim to any hydrocarbon resources leasable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from November 16, 1981, containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

(B) The Secretary shall issue final regulations to implement this section within six months of November 16, 1981. If any oil and gas lease eligible for conversion under this section would otherwise expire after November 16, 1981, and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the regulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, **12½ per centum** **18.75 percent** in amount or value of production removed or sold from the lease.

(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to November 16, 1981.

(o) Certain outstanding oil and gas deposits

(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

(3) Advance notice under paragraph (2) shall include each of the following items of information:

(A) A designated field representative.

(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

(D) A plan of erosion and sedimentation control.

(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either-

(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

(B) This subsection shall only apply in the Allegheny National Forest.

(p) Deadlines for consideration of applications for permits

(1) In general

Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall-

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

(2) Issuance or deferral

Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall-

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice-

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

(3) Requirements for deferred applications

(A) In general

If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

(B) Issuance of decision on permit

If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

(C) Denial of permit

If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.

(Sec. 31) §188. Failure to comply with provisions of lease

(a) Forfeiture

Except as otherwise herein provided, any lease issued under the provisions of this chapter may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this chapter, of the lease, or of the general regulations promulgated under this chapter and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

(b) Cancellation

Any lease issued after August 21, 1935, under the provisions of [section 226 of this title](#) shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under [section 226\(m\) of this title](#) which contains a well capable of production of unitized substances in paying quantities. Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States land office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such district, then in the post office nearest such land. Notwithstanding the provisions of this section, however, upon failure of a lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities, the lease shall automatically terminate by operation of law: *Provided, however,* That when the time for payment falls upon any day in which the proper office for payment is not open, payment may be received the next official working day and shall be considered as timely made: *Provided,* That if the rental payment due under a lease is paid on or before the anniversary date but either (1) the amount of the payment has been or is hereafter deficient and the deficiency is nominal, as determined by the Secretary by regulation, or (2) the payment was calculated in accordance with the acreage figure stated in the lease, or in any decision affecting the lease, or made in accordance with a bill or decision

which has been rendered by him and such figure, bill, or decision is found to be in error resulting in a deficiency, such lease shall not automatically terminate unless (1) a new lease had been issued prior to May 12, 1970, or (2) the lessee fails to pay the deficiency within the period prescribed in a notice of deficiency sent to him by the Secretary.

(c) Reinstatement

Where any lease has been or is hereafter terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of rental due, but such rental was paid on or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee, the Secretary may reinstate the lease if-

(1) a petition for reinstatement, together with the required rental, including back rental accruing from the date of termination of the lease, is filed with the Secretary; and

(2) no valid lease has been issued affecting any of the lands covered by the terminated lease prior to the filing of said petition. The Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him. In any case where a reinstatement of a terminated lease is granted under this subsection and the Secretary finds that the reinstatement of such lease will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable: *Provided*, That (A) such extension shall not exceed a period equivalent to the time beginning when the lessee knew or should have known of the termination and ending on the date the Secretary grants such petition; (B) such extension shall not exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination; and (C) when the reinstatement occurs after the expiration of the term or extension thereof the lease may be extended from the date the Secretary grants the petition.

(d) Additional grounds for reinstatement

(1) Where any oil and gas lease issued pursuant to section 226(b) or (c) of this title or the Mineral Leasing Act for Acquired Lands ([30 U.S.C. 351 et seq.](#)) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(2) No lease shall be reinstated under paragraph (1) of this subsection unless-

(A) with respect to any lease that terminated under subsection (b) on or before August 8, 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of-

(i) 60 days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice; or

- (ii) 15 months after the termination of the lease; or
- (B) with respect to any lease that terminates under subsection (b) after August 8, 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of-
 - (i) 60 days after receipt of the notice of termination sent by the Secretary by certified mail to all lessees of record; or
 - (ii) 24 months after the termination of the lease.

(e) Conditions for reinstatement

Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however,* That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of [section 226\(b\) of this title](#) of a requirement for future rentals at a rate of not less than \$10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of [section 226\(c\) of this title](#) of a requirement that future rentals shall be at a rate not less than \$5 per acre per year, all as determined by the Secretary;

(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of [section 226\(b\) of this title](#) of a requirement for future royalties at a rate of not less than [162/3](#) 25 percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of [section 226\(c\) of this title](#) of a requirement for future royalties at a rate not less than [162/3](#) 25 percent: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed \$500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

(f) Issuance of noncompetitive oil and gas lease; conditions

Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by [section 1744 of title 43](#), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence

on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of [section 226\(e\) of this title](#), to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary-

(A) with respect to any claim deemed conclusively abandoned on or before January 12, 1983, on or before the one hundred and twentieth day after January 12, 1983, or

(B) with respect to any claim deemed conclusively abandoned after January 12, 1983, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than \$5 per acre per year;

(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

(g) Treatment of leases

(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to [section 226\(b\) or \(c\) of this title](#).

(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to [section 226\(c\) of this title](#).

(3) Notwithstanding any other provision of law, any lease issued pursuant to [section 223 of this title](#) shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this section, applicable to leases issued under [section 226\(c\) of this title](#) except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(4) Notwithstanding any other provision of law, any lease issued pursuant to [section 223 of this title](#) shall, upon renewal on or after November 15, 1990, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(h) Statutory provisions applicable to leases

The minimum royalty provisions of [section 226\(m\) of this title](#) and the provisions of [section 209 of this title](#) shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

(i) Royalty reductions

(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.

(j) Discretion of Secretary

Where, in the judgment of the Secretary of the Interior, drilling operations were being diligently conducted on the last day of the primary term of the lease, and, except for nonpayment of rental, the lessee would have been entitled to extension of his lease, pursuant to [section 226-1\(d\) of this title](#), the Secretary of the Interior may reinstate such lease notwithstanding the failure of the lessee to have made payment of the next year's rental, provided the conditions of subparagraphs (1) and (2) of section ¹ (c) are satisfied.

(Sec. 35) §191. Disposition of moneys received

(a) In general

[All] Except as provided in subsection (e), all money received from sales, bonuses, royalties including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 [[30 U.S.C. 1701 et seq.](#)], and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [[30 U.S.C. 1001 et seq.](#)], shall be paid into the Treasury of the United States; and, subject to the provisions of subsection (b), 50 per centum thereof shall be paid by the Secretary of the Treasury to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this chapter and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as "miscellaneous receipts", as provided by [section 8733\(b\) of title 10](#). All moneys received under the provisions of this chapter and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts. Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt

of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.

(b) Deduction for administrative costs

In determining the amount of payments to the States under this section, beginning in fiscal year 2014 and for each year thereafter, the amount of such payments shall be reduced by 2 percent for any administrative or other costs incurred by the United States in carrying out the program authorized by this chapter, and the amount of such reduction shall be deposited to miscellaneous receipts of the Treasury.

(c) Rentals received on or after August 8, 2005

(1) Notwithstanding the first sentence of subsection (a), any rentals received from leases in any State (other than the State of Alaska) on or after August 8, 2005, shall be deposited in the Treasury, to be allocated in accordance with paragraph (2).

(2) Of the amounts deposited in the Treasury under paragraph (1)-

(A) 50 percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the leased land is located or the deposits were derived; and

(B) 50 percent shall be deposited in a special fund in the Treasury, to be known as the "BLM Permit Processing Improvement Fund" (referred to in this subsection as the "Fund").

(3) Use of fund.-

(A) In general.-The Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal and Indian trust mineral estate land.

(B) Accounts.-The Secretary shall divide the Fund into-

(i) a Rental Account (referred to in this subsection as the "Rental Account") comprised of rental receipts collected under this section; and

(ii) a Fee Account (referred to in this subsection as the "Fee Account") comprised of fees collected under subsection (d).

(4) Rental account.-

(A) In general.-The Secretary shall use the Rental Account for-

(i) the coordination and processing of oil and gas use authorizations on onshore Federal and Indian trust mineral estate land under the jurisdiction of the Project offices identified under [section 15924\(d\) of title 42](#); and

(ii) training programs for development of expertise related to coordinating and processing oil and gas use authorizations.

(B) Allocation.-In determining the allocation of the Rental Account among Project offices for a fiscal year, the Secretary shall consider-

(i) the number of applications for permit to drill received in a Project office during the previous fiscal year;

(ii) the backlog of applications described in clause (i) in a Project office;

(iii) publicly available industry forecasts for development of oil and gas resources under the jurisdiction of a Project office; and

(iv) any opportunities for partnership with local industry organizations and educational institutions in developing training programs to facilitate the coordination and processing of oil and gas use authorizations.

(5) Fee account.-

(A) In general.-The Secretary shall use the Fee Account for the coordination and processing of oil and gas use authorizations on onshore Federal and Indian trust mineral estate land.

(B) Allocation.-The Secretary shall transfer not less than 75 percent of the revenues collected by an office for the processing of applications for permits to the State office of the State in which the fees were collected.

(d) BLM oil and gas permit processing fee

(1) In general

Notwithstanding any other provision of law, for each of fiscal years 2016 through 2026, the Secretary, acting through the Director of the Bureau of Land Management, shall collect a fee for each new application for a permit to drill that is submitted to the Secretary.

(2) Amount

The amount of the fee shall be \$9,500 for each new application, as indexed for United States dollar inflation from October 1, 2015 (as measured by the Consumer Price Index).

(3) Use

Of the fees collected under this subsection for a fiscal year, the Secretary shall transfer-

(A) for each of fiscal years 2016 through 2019-

(i) 15 percent to the field offices that collected the fees and used to process protests, leases, and permits under this chapter, subject to appropriation; and

(ii) 85 percent to the BLM Permit Processing Improvement Fund established under subsection (c)(2)(B) (referred to in this subsection as the "Fund"); and

(B) for each of fiscal years 2020 through 2026, all of the fees to the Fund.

(4) Additional costs

During each of fiscal years of 2016 through 2026, the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing applications for permits to drill.

(e) Distribution of Certain Amounts.—Notwithstanding paragraph (1), the amount of any increase in revenues collected as a result of the amendments made by subsection (b) of section 28 of the Environmental Justice For All Act shall be deposited and distributed in accordance with subsection (d) of that section.